



6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

[EPA-HQ-SFUND-2002-0001; FRL-9981-92-Region 8]

**National Oil and Hazardous Substances Pollution Contingency Plan;**

**National Priorities List: Deletion of the Eureka Mills Superfund Site**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule; notice of intent.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 8 is issuing a Notice of Intent to Delete the Eureka Mills Superfund Site (Site) located in Eureka, Utah, from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of Utah, through the Utah Department of Environmental Quality (UDEQ), have determined that all appropriate response actions under CERCLA, other than operation and maintenance and five-year reviews (FYR), have been completed. However, this deletion does not preclude future actions under Superfund.

**DATES:** Comments must be received by **insert date 30 days after date of publication in the Federal Register**.

**ADDRESSES:** Submit your comments, identified by Docket ID no. EPA-HQ-SFUND-2002-0001 by one of the following methods:

- <http://www.regulations.gov> . Follow on-line instructions for submitting comments. Once

submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

- E-mail: [saenz.armando@epa.gov](mailto:saenz.armando@epa.gov)
- Mail: Armando Saenz, Remedial Project Manager, U.S. EPA, Region 8, Mail Code 8EPR-SR, 1595 Wynkoop Street, Denver, CO 80202-1129

*Instructions:* Direct your comments to Docket ID no. EPA-HQ-SFUND-2002-0001. The <http://www.regulations.gov> Web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification,

EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the <http://www.regulations.gov> index.

Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in the hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at:

Eureka City Hall, 255 W Main Street, Eureka, UT 84628;

Phone: (435-433-6915); Hours: M-Fri: 8:30 a.m. – 5:00 p.m.

**FOR FURTHER INFORMATION, CONTACT:** Armando Saenz, Remedial Project Manager, U.S. Environmental Protection Agency, Region 8, EPA-SR, Denver, CO 80202, (303) 312-6559, e-mail: [saenz.armando@epa.gov](mailto:saenz.armando@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### Table of Contents.

I. Introduction

II. NPL Deletion Criteria

III. Deletion Procedures

IV. Basis for Intended Site Deletion

#### **I. Introduction**

EPA Region 8 announces its intent to delete the Eureka Mills Superfund Site from the NPL and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of CERCLA of 1980, as amended.

EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). As described in 40 CFR 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions if future conditions warrant such actions.

EPA will accept comments on the proposal to delete this Site for thirty (30) days after publication of this document in the **Federal Register**.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Eureka Mills Superfund Site and demonstrates how it meets the deletion criteria.

## **II. NPL Deletion Criteria**

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to 40 CFR 300.425(e), EPA will consider, in consultation with the State, whether any of the following criteria have been met:

- i. Responsible parties or other persons have implemented all appropriate response actions required;
- ii. All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or
- iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Pursuant to CERCLA section 121(c) and the NCP, EPA conducts five-year reviews to ensure the continued protectiveness of remedial actions where hazardous substances, pollutants, or contaminants remain at a site above levels that allow for unlimited use and unrestricted exposure. EPA conducts such five-year reviews even if a site is deleted from the NPL. EPA may initiate further action to ensure continued protectiveness at a deleted site if new information becomes available that indicates it is appropriate. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

### **III. Deletion Procedures**

The following procedures apply to deletion of the Site:

- (1) EPA consulted with the State before developing this Notice of Intent to Delete.
- (2) EPA has provided the State 30 working days for review of this notice prior to publication of it today.
- (3) In accordance with the criteria discussed above, EPA has determined that no further response is appropriate;
- (4) The State of Utah, through the UDEQ, has concurred with deletion of the Site from the NPL.
- (5) Concurrently with the publication of this Notice of Intent to Delete in the **Federal Register**, a notice is being published in the local Eureka Review Newsletter. The newspaper notice announces the 30-day public comment period concerning the Notice of Intent to Delete the Site from the NPL.

- (6) The EPA placed copies of documents supporting the proposed deletion in the deletion docket and made these items available for public inspection and copying at the Site information repositories identified above.

If comments are received within the 30-day public comment period on this document, EPA will evaluate and respond appropriately to the comments before making a final decision to delete. If necessary, EPA will prepare a Responsiveness Summary to address any significant public comments received. After the public comment period, if EPA determines it is still appropriate to delete the Site, the Regional Administrator will publish a final Notice of Deletion in the **Federal Register**. Public notices, public submissions and copies of the Responsiveness Summary, if prepared, will be made available to interested parties and in the Site information repositories listed above.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

#### **IV. Basis for Intended Site Deletion**

The following information provides EPA's rationale for deleting the Site from the NPL.

##### **Site Background and History**

The 450-acre Eureka Mills Superfund Site (UT0002240158) encompasses much of Eureka. The town is situated in a southwest trending valley on the west side of the East Tintic Mountains in Juab County about 80 miles southwest of Salt Lake City, Utah. The town was founded in 1870 upon the discovery of a high-grade mineralized outcrop containing silver,

lead, gold, copper and arsenic. The area was extensively mined until 1958. Because of extensive mining activities, numerous mine waste piles were formed and spread throughout the town (including residential areas).

Investigations of the impacts from historic mining activities in Eureka began in 2000. Based on the results of initial blood lead testing and soil sampling, EPA and the State initiated an extensive blood lead testing program for Eureka residents in the summer of 2000. In addition, EPA's Emergency Response Program initiated an extensive soil sampling program of residential properties and mine waste areas.

During the 2001 and 2002 construction seasons, EPA's Emergency Response Program conducted an emergency removal action on 69 properties. The action consisted of removing and replacing up to 18 inches of soil high in lead content on each property. The properties were selected based on soil lead levels greater than 3000 ppm and/or a child living in the home with a blood lead level greater than 10 µg/dL. The Site was proposed for the NPL on June 14, 2001 (66 FR 32287) and finalized on September 5, 2002 (67 FR 56757).

### **Remedial Investigation and Feasibility Study (RI/FS)**

The RI/FS began in 2000 and was completed in 2002. Samples confirmed that metals were present in mine waste piles, residential/non-residential soils and within the interiors of some residences/commercial buildings. Over 4,205 soil samples were collected from 505 residential/commercial properties. One hundred residential properties contained surface soil lead in concentrations greater than 3,000 ppm. An additional 350 residential properties showed surface soil lead concentrations at levels between 231 and 2,999 ppm. Samples were also collected from mine waste piles and areas with future development potential. Lead

concentrations within the waste pile material ranged from 1,000 ppm to 47,806 ppm. Lead in areas with future development potential ranged from 325 ppm to 15,000 ppm.

The Baseline Human Health Risk Assessment (BHHRA) was completed in 2002 and evaluated the current/future risks to human health associated with elevated concentrations of metals in soils and mine waste within the Site. Lead was found to be the primary soil contaminant of concern (COC) and other soil COCs (antimony, arsenic, mercury, silver and thallium) were found to be co-located with lead.

### **Selected Remedy**

An interim ROD (September 2002) for Operable Unit (OU) 00 addressed the public health actions to reduce the immediate exposure of residents (particularly, children under the age of 7 years) to lead from soil/dust in the environment prior to the implementation of the final remedy for the soils and mine wastes. Five OUs were designated for the Site:

- 00 - Entire Site including the residential/commercial areas
- 01 - May Day Shaft, Godiva Shaft and the Godiva Tunnel
- 02 - Bullion Beck Mine/Mill and Gemini Mine Waste Piles
- 03 - Central Eureka Mining Areas
- 04 - Ecological Risk Assessment, Groundwater and Surface Water

With the completion of the BHHRA and RI/FS in 2002, EPA issued the final Site remedy for the soils and mine waste areas found to pose an imminent/substantial endangerment to public health in the September 2002 ROD for OUs 00-03. Lead was found to be the primary soil COC and other soil COCs (antimony, arsenic, mercury, silver and thallium) were co-located with lead. The health based clean-up levels specified in the ROD were 231 ppm lead in soils for residential use and 735 ppm lead in soils for recreational use.



The Remedial Action Objectives were:

- Prevent exposure of children to lead in surface soil within current residential properties, vacant properties interspersed among residential properties, and commercial properties at the Site where soil is determined to be the source of lead and the ingestion of soil is predicted to result in a greater than 5% chance that an individual child or a group of similarly exposed children will have a blood lead level greater than 10 µg/dL.
- Prevent exposure of adolescents/adults engaging in recreational activities to lead in surface soil within discrete mine waste piles and non-residential properties (areas currently used for recreation but could be proposed for future development) where ingestion of soil is predicted to result in a greater than 5% chance that an individual or a similarly exposed group will have a blood lead level greater than 11.1 µg/dL.
- The final remedy included the following components:
- Cleanup of 691 residential and commercial properties with lead in soil concentrations greater than the action level. The cleanup generally consisted of removal of 18 inches of soil, placement of a marker barrier at 18 inches to define contaminated soil below and construction of an 18-inch cap consisting of soil with a vegetative cover or rock materials;
- Capping of 13 mine waste piles near Eureka that posed a human health risk with an 18-inch cap of vegetated soil or rock;
- Construction of a disposal cell (open cell) for contaminated soils that may be excavated during future development activities;

- Implementation of institutional controls in the form of 1) proprietary controls in the form of easements or environmental covenants and; 2) local governmental ordinances to control excavation activities that could disturb contaminated materials; and,
- Conducting public health actions, including information programs, periodic blood lead testing of children, and a program for evaluating sources of indoor lead exposure.

The 2002 ROD for OUs 00-03 did not address the groundwater, surface water and ecological pathways because of the urgency to address actual exposures to lead contaminated soils evident in blood lead tests Eureka children. EPA conducted an RI for the surface water/groundwater from 2007 to 2009. Analysis of surface water samples collected during the RI met the Utah State Criteria for agricultural and recreational use. No groundwater impacts were found from historical mining that presented a concern for human health. In addition, samples from drinking water wells showed consistently high-quality water with no metals exceeding Maximum Contaminant Levels (MCLs). An ecological risk assessment (conducted from 2009 to 2010) concluded that, while there was a small risk to certain avian species, addressing the associated contamination would result in the destruction of valuable habitat for other avian species/wildlife not at risk. A No Action ROD for OU O4 was issued in September 2011 for the groundwater, surface water and ecological pathways.

In summary, the three RODs for the Site are as follows: 1) Early Interim Action ROD for Operable Unit 00 at the Eureka Mills Site (September 30, 2002); 2) ROD for Lead-Contaminated Soil, Operable Unit 00 - 03 at the Eureka Mills NPL Site (September 30, 2002); and 3) Eureka Mills OU 4 Groundwater, Surface Water and Ecological Risk ROD (September 21, 2011).

## **Response Actions**

The remedial design (RD) was completed in May 2003 and the remedial action (RA) began in August 2003 and was completed in October 2010. Most of the RA activities were performed by EPA with the assistance from the United States Army Corps of Engineers (USACE) under an interagency agreement. The USACE oversaw all work performed by its contractors and provided monthly progress reports. The monthly progress reports documented the work completed, problems encountered and their resolution, upcoming work and invoices submitted for payment during the reporting period. Potentially responsible parties (mine owners/operators) performed portions of the RA and provided materials and resources for other RA tasks.

Because the duration of the RA extended over an eight-year period with multiple parties performing the RA work, pre-final/final inspections were conducted throughout the remedial action as specific portions of the Site were completed. Each PRP prepared a RA report after its work which was then reviewed by EPA and UDEQ and approved by EPA. EPA prepared annual RA reports documenting the work completed during the year which were reviewed and concurred on by UDEQ.

The OU 00 RA for residential cleanup began in August 2004, and was completed in September 2010. EPA and UDEQ conducted inspections of the residential cleanup on a continual basis during each construction season from 2004 through 2010. Punch list items identified during the residential inspections were minor and immediately addressed. The remedial activities of the residential cleanup were summarized in each annual RA report.

The surface runoff control features were designed to conform to the Federal Emergency Management Agency's (FEMA) revised Flood Insurance Rate Map. The initial

hydrologic studies for the mapping were jointly conducted by FEMA and EPA in 2003.

Following the completion of the RA and the surveying of the constructed drainages, EPA (on behalf of Eureka) submitted a letter to FEMA requesting revisions to the 2004 Flood Insurance Rate Map. FEMA approved the revisions in a letter dated May 12, 2011.

Construction completion for the Site was achieved with the signing of the Preliminary Close Out Report (PCOR) and RA Report on September 21, 2011.

### **Operation and Maintenance**

The O&M Plan and O&M Manual for the Site were approved on July 31, 2009 as attachments to the amended State Superfund Contract (SSC). The O&M Plan outlines the responsibilities of UDEQ and the City of Eureka for the O&M of the remedy at the Site including the implementation of ICs and operation of the open cell. The remedy was determined to be Operational and Functional on July 18, 2011 by EPA and the State of Utah assumed responsibility for O&M pursuant to the O&M Plan.

The O&M Manual defines the maintenance tasks - inspection schedule, operation of the open cell and any material specifications for erosion repairs, etc. The O&M Manual includes the "as-built" drawings of the Response Action Structures (RASs) and individual inspection sheets for each RAS. In addition, the O&M Manual includes the survey descriptions and drawings of the RASs attached to the environmental covenants filed on each affected parcel.

The final remedy requires ICs because contaminated materials remain at the Site above levels that allow for unlimited use and unrestricted exposure. The ICs at the Site include environmental covenants and a local excavation ordinance.

Environmental covenants (ECs) were filed for each land parcel wholly or partially within the footprint of each RAS. RASs include the capped mine waste piles, drainage control features

(sedimentation ponds/constructed drainages) and access roads. Filed by the property owner (usually a PRP), the ECs limit the type of land uses on RASs. Uses that could compromise the integrity of the remedy are prohibited. The ECs prohibit any disturbance or alteration of the RASs without prior approval by EPA/UDEQ and require compliance with Eureka's excavation ordinance. Future property owners will have to comply with the requirements of the ECs given that the ECs run with the land.

In October 2010, Eureka adopted a local ordinance that governs excavation activities in areas that have been remediated but not developed. Undeveloped areas were not remediated at the time of the RA because of thick vegetation (and limited exposure to contaminated soils). The 00-03 ROD determined that the most appropriate time to remediate undeveloped areas would be during development. The ordinance requires property owners to obtain a permit for certain excavation activities defined as "restricted activities." All contaminated materials displaced during excavation must either be disposed at the open cell or be capped with 18 inches of clean topsoil/road base material or capped with a structure or paved surface (minimum 2-inch hard cover surface). UDEQ provides technical/financial support to Eureka for the administration and enforcement of the ordinance through a funding agreement.

### **Five-Year Review**

Statutory Five-Year Reviews (FYR) of the Site are required because hazardous substances remain on-Site above levels which allow for unlimited use and unrestricted exposure. The last FYR Report was signed on July 17, 2018 and found that, because the remedial actions at all OUs are protective, the remedy implemented at the Site is protective of human health and the environment. There were no issues/recommendations. The next five-year review is scheduled to be completed by July 2023.

## **Community Involvement**

Since the implementation of the final Site remedy, there has not been any significant public/congressional interest. There have been no expressions of health/environmental concerns with the remedy.

Community involvement activities associated with the most recent FYR included a public notice published in the Eureka Review Newsletter on March 1, 2018 and stakeholder interviews to discuss the review and address concerns or issues with the Site. The interviews were conducted from March 1 through April 15, 2018 and included representatives from the Eureka City Council, Eureka City Officials and surrounding property owners.

None of the interviewees expressed any health or environmental concerns with the remedy and felt the remedy remains protective. The City of Eureka expressed concerns about issues that are not remedy-related such as problems with sewer/water lines, roads, drainage areas and historic head frames. Property owners either approved of the necessity of a cleanup for a healthy community or disapproved of the rock appearance extensively used for cover of mine waste areas. The interviewees approved of EPA's proposal and State concurrence to delete the Site from the NPL by the end of the federal fiscal year 2018.

## **Determination that the Site Meets the Criteria for Deletion**

This Site meets all the completion requirements as specified in the OSWER Directive 9320.2-22, Close Out Procedures for National Priorities List Sites. All remedial activities at the Site are consistent with agency policy and guidance. The only remaining CERCLA activities to be performed at the Site are O&M and five-year reviews. No further Superfund responses are needed to protect human health and the environment at the Site.

The NCP (40 CFR 300.425(e)) states that a site may be deleted from the NPL when no further response action is appropriate. EPA, in consultation with the State of Utah, has determined that all required response actions have been implemented and no further response action is appropriate.

#### **List of Subjects in 40 CFR Part 300**

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(d); 42 U.S.C. 9601–9657; E.O. 13626, 77 FR 56749, 3 CFR, 2013 Comp., p. 306; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

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Dated: July 30, 2018.

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Douglas H. Benevento,  
Regional Administrator,  
Region 8.

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